
(2005) 12 MAD CK 0040

In the Madras High Court

Case No : Writ Petition No. 17732 of 1999 and Writ Petition No's. 1983, 23514, 25369 and 25370 of 2001, 286, 503, 520, 521, 523 to 525, 526, 674 to 676, 3022, 3923, 6594, 13023, 23389, 23625, 29588, 29775, 29838, 29893, 29978, 30305, 30440, 32100, 32916 to 32919,

Aided Elementary School T. Puthur

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

Date of Decision : 23-12-2005

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2005) 12 MAD CK 0040

Hon'ble Judges : S.K. Krishnan, J;P. Sathasivam, J

Bench : Division Bench

Advocate : C. Selvaraju for S. Mani in WP.38250/02, A. Jinasenan, in Wps674 to 676/02, T. Ananthi, WP.503/02, J. Sundar, WP. 13023/02, R. Ganesan, in WP.29588/02 etc., K. Srinivasan, in WP.29775/02, Jagadish Chandra, in WP.32916/02, V. Kathiravan, in WP.33552/02, Suresh Viswanath, in WP.35103/02 etc., Isaac Mohanlal, in WP.35405/02 etc., S.Silambanan, in WP.35745/02 etc., K.V. Subramanian, in WP.37020/02 etc., G. Jeremiah, in WP. 39405/02 etc., R. Santhanam, in WP.39906/02 etc., V. Venkatasamy, WP.42308/02 etc., Srinath Sridevan, in WP.45514/02 etc., S. Giridharan, in WP.44608/02, N. Paul Vasanthakumar, in WP.39858/02 etc., R. Dharmaraj, in WP.10292/03 etc., S.N. Ravichandran, in WP.6229/03 etc., K.S. Kumar, in WP.7079/03 etc., G. Thilakavathi, in WP.11295/03, A. Ilango, in WP.1983/01 etc., P. Rajendran, in WP.3022/02 etc., T.S. Sivagnanam, in WP.30440/02, Ajmal Khan, in WP.8993/03, M. Chidambaram, in WP.4371/03 etc., R.T. Shyamala, in WP.39134/02, for the Appellant; R. Muthukumarasamy all the WPs., A.A.G. Assisted by V. Karthikeyan, Addl. Govt., Pleader (Edn.), for the Respondent

Final Decision : Dismissed

Judgement

P. Sathasivam, J.—Since the issue raised in all these writ petitions is one and the same, they are being disposed of by the following common order.

2. The above batch of writ petitions have been filed questioning the orders

passed by the educational authorities directing deployment of teachers found surplus in the respective schools based on G.O.Ms. No.525 Education Department, dated 29.12.1997.

3. The facts leading to filing the above writ petitions are as follows:

(a) The writ petitioners are either the respective school managements or the deployed teachers, who question the orders passed by the authorities. On 29.12.1997, the Government had issued orders in G.O.Ms. No.525 School Education, prescribing revised norms for sanctioning the required number of posts in the Elementary / Middle / High and Higher Secondary Schools for purposes of aid. The writ petitions are mostly related to Elementary and Middle Schools, to which the norms for sanction of required number of posts of teachers are common. As per the aforesaid Government Order, the teacher-pupil ratio, 1:40 was required to be followed with a minimum of 2 secondary grade teachers upto the strength of 80. The Government Order further provided that for every additional strength of 40 students, one post of secondary grade teacher will be sanctioned. The order further directed that the third post will be sanctioned when the student strength reaches 100 and the fourth and subsequent post will be sanctioned for every addition of 40 students.

(b) The Government Order and the directions issued by the Government stipulate that the strength of the students will be examined by taking into account the average attendance for the month of August. It was further provided that in the event of there being excessive teachers, the surplus teachers will be deployed to the neighbouring schools.

(c) The aforesaid Government Order was questioned in a batch of writ petitions. By order dated 06.10.1998, this Court upheld the validity of the above Government Order. Writ Appeals (W.A.No.1768 of 1998 etc., batch) filed against the said orders were also dismissed by order dated 09.11.2000.

4. It is brought to our notice that the Government Order in G.O.Ms.525 was directed to take effect from 01.06.1998. On account of the pendency of the writ petitions and thereafter the writ appeals, no action could be taken to implement the Government Order till 09.11.2000. After the dismissal of the writ appeals, action was taken to implement the Government Order. After ascertaining the average attendance of students in August, 2001, orders were issued by the educational authorities deploying the excess teachers wherever found, to the neighbouring schools. Those orders were challenged in this batch of writ petitions.

5. While disposing of the writ appeals, the earlier Division Bench has taken note of a circular issued by the educational authorities and observed that schools will be entitled to a third teacher when the strength is 81. The said circular issued in 1998 was plainly inconsistent with the Government Order and the said circular was rescinded even in December, 1998. However, the Division Bench, while rendering judgment in the writ appeals, took note of the said circular and observed that schools with student strength of more than 80 would be entitled to

a third teacher when the strength is 81 and thereafter one teacher for every additional 40 students. In this regard, a clarification petition, viz., WAMP.No.5667 of 2003 was filed by the Government, was heard by a Division Bench, which ultimately passed orders on 12.05.2004, clarifying the order passed in the writ appeals to the effect that the third teacher will be sanctioned only when the student strength is 101 and thereafter the school will be entitled to one teacher for every addition of 40 students, viz., 140, 180, 220, etc.

6. It is the case of the petitioners that the educational authorities had implemented the Government Order strictly from August 2001 by taking into account the provisions contained in the said Government Order and they did not take note of the circular issued by the authorities in February, 1998, which was rescinded even in December, 1998.

7. The contention of the writ petitioners in the batch of writ petitions is twofold.

(a) Firstly, they contend that since the Division Bench judgment in the writ appeals had referred to the entitlement of a third teacher when the student strength is 81, which had been corrected in the clarification petition in 2003 only, the impugned orders passed in 2001 or 2002 should be set aside and the authorities should be directed to perform a re-exercise by testing the student strength as of August 2005 and pass fresh orders.

(b) Secondly, having regard to the fact that there had been change of circumstances by efflux of time as there would have been retirement etc., of the existing teachers who continued on account of stay orders, it is just and necessary that a re-exercise is to be done so that the student and the teachers strength as on August 2005 be taken into account before passing appropriate orders by the authorities. It is further contended that by doing this exercise there will be no prejudice caused to anybody.

8. So far as the first contention is concerned, the observation by the Division Bench judgment to the effect that the schools will be entitled to a third teacher when the student strength is 81 was based on a circular which was rescinded even in 02.12.1998 and having regard to the fact that the authorities had implemented only the Government Order strictly according to its terms from August, 2001, there is no necessity to perform the exercise again. Further, the clarification petition and the order passed did not affect the impugned orders, since the impugned orders were passed strictly on the basis of the Government Orders, according to which the schools are entitled to a third teacher only when the student strength is 101 and additional teacher for every additional strength of 40.

9. With regard to second contention, even though the G.O.Ms.No.525 came into effect from 01.06.1998, it could not be implemented on account of pendency of writ petitions and writ appeals till November, 2000. After the dismissal of the writ appeals, the Government Order had been implemented by taking into account the strength of students in August 2001. It is perfectly valid, since the

Government Order has been upheld and the same had been implemented in accordance with law and therefore no exception can be taken by the petitioners. The fact that there has been increase in the strength of students subsequently or number of teachers has dwindled by retirement, etc., cannot be a ground to invalidate the impugned order. It is also the submission of the Government that in the event of any particular order being incorrect and inconsistent with the Government Order in G.O.Ms.No.525, they had been corrected by appropriate orders. As the Government Order has been upheld finally and that the Government have implemented the Government Order strictly in accordance with its terms, the impugned orders cannot be invalidated and the respondents need not be directed to re-do the exercise.

10. In all the writ petitions, the petitioners, viz., School Managements and the Teachers are having no grievance regarding the order of the Government in G.O.Ms.No.525 Educational Department dated 29.12.1997. According to them, while ascertaining the Teacher-Pupil strength, the educational authorities have failed to consider various aspects. As rightly pointed out by the learned Additional Advocate General, the earlier Division Bench, particularly in the clarificatory order dated 12.05.2004, explained that as per G.O.Ms.No.525, the Teacher -Pupil ratio is 1 : 40 and only when the pupil strength is 80, second teacher post will be sanctioned and likewise, when the strength is 1 00, 3rd teacher post will be sanctioned and the 4th teacher post at 1 40, 5th teacher post at 180 and so on. We have also verified the impugned orders passed by the various educational authorities and we are satisfied that they were passed strictly on the basis of the Government Order, according to which the schools are entitled to third teacher only when the student strength is 101 and an additional teacher for the additional strength of 40 students.

11. The other contention that the Educational Authorities failed to consider the change of circumstances by efflux of time, viz., retirement, voluntary retirement, death, etc., is concerned, we are of the view that after verification, if student strength is found increased, it is always open to the school authorities to highlight the same to the concerned educational authority / authorities by placing acceptable materials. If any such representation is made supported by acceptable evidence, it is for the educational authority / authorities to consider and pass appropriate orders, modifying their earlier decision.

12. Under these circumstances, we do not find any valid ground for interference in the orders of the respondents. We are satisfied that all the orders have been passed based on G.O.Ms.No.525 Educational Department dated 29.12.1997, which has been upheld by the Division Bench of this Court. As said earlier, in the case of retirement, voluntary retirement or death of a teacher and if there is any increase in pupils strength, the school management is free to represent the same to the educational authority and if any such representation is made, the concerned educational authority is duty bound to pass appropriate orders, after inspection and verification.

13. It is brought to our notice that in all the writ petitions, by virtue of interim orders granted by this Court, the deployed teachers were allowed to continue in the same schools. Considering the interest of the students studying in the respective institutions, we permit all the teachers concerned to continue if they so desire in the respective schools till the end of April, 2006. It is made clear that the respondents are free to implement their orders from 01.05.2006 onwards.

With the above observations, the writ petitions are dismissed. No costs. Connected miscellaneous petitions are also dismissed.